

REMARKS

In response to the Office Action mailed May 26, 2009, Applicants respectfully request reconsideration. Claims 1-39 were previously pending in this application. Claims 19-37 were withdrawn from consideration. Claim 1 has been amended in the claim listing above. Support for the claim amendment can be found in the figures, for example, Figs. 3, 4, 5A-B, and, 6-7. New Claims 40-55 are being added. The application is believed to be in condition for allowance.

Summary of Examiner Interview

Applicant's Attorney thanks Examiner Gissel and Supervisor Examiner Williams for a telephonic interview on July 28, 2009 regarding the pending case. During the interview, differences between a proposed amendment to claim 1 and the cited reference were discussed. Examiner Gissel, Supervisor Examiner Williams and Applicant's Attorney agreed that an amendment to claim 1 indicating that the linkage is connected to both the mounting assembly and adapter assembly would overcome the rejections based on references Wolf and Roberts. Applicant's Attorney thanks the Examiners for their helpful comments.

Rejections under 35 U.S.C. §102

Claims 1, 4, 7, 11, 14, 15, 17 and 18 were rejected under 35 USC 102(b) as being anticipated by Wolf (US6148815). The rejection is respectfully traversed.

Wolf discloses an electronic medication chronolog device. Wolf describes a chronolog apparatus 1200 attached to adaptable housing 1210 (Figure 13). The device includes a strain gauge sensing arm 1555 (Figure 15a) which is attached to computing equipment and extends through a hole in a side of an actuator housing for engaging a portion of a vial/canister next to the valve stem.

The sensing arm 1555 includes a contactor 1630. When the vial/canister is compressed, a surface 1640 of the vial/canister makes physical contact with the contactor 1630 in the sensing arm 1555. The sensing arm senses only the vial/canister's contact and cessation of contact with the contactor 1630 and signals the computing equipment.

In other words, the sensing arm 1555 is only connected to sensing gauge 1620 and is not connected to the vial/canister. The sensing arm 1555 only makes temporary physical contact with the vial/canister via the contactor 1630. Therefore, Wolf fails to teach "a linkage adapted to connect between the mounting assembly and the adapter assembly," as required by claim 1, as amended.

For at least the above-noted reasons regarding the rejection of base claim 1, respective dependent claims 4, 7, 11, 14, 15, 17 and 18 are believed to be patentable over Wolf.

Rejection of Claims Under 35 U.S.C. § 103

Claims 2, 3, 8 and 9 were rejected under 35 USC 103(a) as being unpatentable over Wolf in view of Roberts (US5579659). Claims 10, 12, 13, 38 and 39 were rejected under 35 USC 103(a) as being unpatentable over Wolf in view of Barger et al. (US2005/0016527). The rejections are respectfully traversed.

Regarding claim 9, the Office Action stated that Roberts discloses a linkage that is a spring loaded wire integrally associated with the potentiometer, with reference made to Roberts col. 4, lines 3-14. At the cited section, Roberts discloses a sensing rod 84 that extends from a potentiometer and abuts a stop 86 (Figure 3). However, such a sensing rod does not constitute a "linkage adapted to connect between the mounting assembly and the adapter assembly," as required by base claim 1, as amended.

For at least the above-noted reasons regarding the rejection of base claim 1, respective dependent claims 2, 3, 8-10, 12, 13, 38 and 39 are believed to be patentable over Wolf alone or taken with Roberts or Barger et al.

New Claims 40-55

New Claims 40-55 which refer to a "device" are allowable for at least the same reasons given above for Claims 1-18 and 39.

Rejoinder of Withdrawn Claims


The Office Action has required a restriction between the product claims (claims 1-18, 38 and 39) and the process claims (claims 19-36) and means plus function claim 38. Upon allowance of the product claims, Applicants request that the nonelected process claims and claim 38 be considered for rejoinder.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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